

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DORIS M. JACKSON, Pharm.D.,

Plaintiff,

v.

TEXAS SOUTHERN UNIVERSITY.

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Civil Action No. 4:11-cv-04092

PLAINTIFF JACKSON'S FIRST AMENDED COMPLAINT

Doris M. Jackson, Pharm.D., hereinafter "Dr. Jackson," files this, her first amended complaint, against Texas Southern University, hereinafter "the University," and states her claims for relief as follows. This amended complaint is filed within the time provided in the scheduling order.

1.

Jurisdiction and Venue

1.1 This action arises under the laws of the United States of America.

1.2 The jurisdiction of this court is invoked in accordance with the provisions of 28 U.S.C. § 1331, federal question; 28 U.S.C. § 1343, civil rights, and 42 U.S.C. § 2000e-5, unlawful discrimination in employment.

1.3 To the extent that claims presented are so related to those over which this court has original jurisdiction that they form a part of the same case or controversy, this court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

1.4 Venue properly lies in this court in accordance with the provisions of the General Venue Statute, 28 U.S.C. § 1391(b) and (c), in that the claim arose in Houston, Harris County, Texas, where the defendant is subject to personal jurisdiction.

2.

Nature of the Claim and Relief Sought

2.1 Claims of unlawful employment discrimination are presented, together with related claims of denial of constitutional rights of free speech and freedom to petition for redress, rights secured her by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 *et seq.*, and , pursuant to applicable state law, unlawful denial of the right to obtain public records.

2.2. After being unable to resolve her claims internally, or administratively through the United States Equal Employment Opportunity Commission, Dr. Jackson seeks a declaration that the abusive and disparate treatment to which she has been and is being subjected has violated and continues to violate her rights under the provisions of Title VII of the 1964 Civil Rights Act, as amended.

2.3 Dr. Jackson sues also to vindicate her constitutional right to freedom of speech and to petition for redress, to secure rights under the Family and Medical Leave Act (FMLA), and to be provided public records as required by the laws of the State of Texas.

2.4 Dr. Jackson prays for restoration to her faculty position, lost pay and benefits of her employment; compensation for damages to her reputation and person, including humiliation, emotional distress, loss of enjoyment of life, and diminished earning capacity; appropriate injunctive relief directing the University to assign her to her rightful place with fair and equal compensation,

and prohibiting the University from continuing its unlawful conduct with respect to Dr. Jackson and from taking any adverse action in retaliation for Dr. Jackson's opposing the unlawful discrimination and participating in efforts to enforce the applicable civil rights law, and exercising her First Amendment rights and her rights under the FMLA and her rights to public records under State law.

2.4 Plaintiff further prays for the recovery of reasonable attorney's fees, the costs of this action, including the fees and expenses of expert testimony, prejudgment and postjudgment interest, and all other relief to which she may show herself entitled at law or in equity.

2.5 This action is being filed during the specific period required by the applicable civil rights law, and Dr. Jackson remains willing to utilize any administrative or informal efforts at resolution to resolve her claims.

3.

The Parties

3.1 Dr. Jackson is an adult, female citizen of the United States and the State of Texas, residing in Houston, Texas, and at times material to this action an associate professor in the Texas Southern University College of Pharmacy and Health Services (COPHS).

3.2 Texas Southern University is a public institution of higher education, with its principal offices and campus located in Houston, Texas, and the recipient of federal financial assistance.

4.

General Statement of Facts

4.1 Dr. Jackson was graduated from Texas Southern University with the degree of Bachelor of Science in Pharmacy, in May 1974.

4.2 After pursuing post-graduate studies, she received the degree of Doctor of Pharmacy from Mercer University in Atlanta, in May 1977.

4.3 Dr. Jackson is an ordained minister and has been active in religious and community activities, including serving as coordinator for the Youth for Christ Foundation, and as general chair of the Health and Educational Article Review Board of the *Forward Times*, a community newspaper.

4.4 For more than 20 years, she has served as a pharmacy faculty member of the University, and she presently holds the rank of associate professor in the University's College of Pharmacy and Health Services, which she has served as associate dean.

4.5 In 2005, she received the Elva K. Steward Alumni of the Year Award from the T. F. Freeman Ministers/Laity Summit at the University. She also has received numerous other awards, including Outstanding Teacher of the Year in 1998.

4.6 She has served as director of continuing clinical service for the National Pharmaceutical Association and has a distinguished research and publications record.

4.7 Dr. Jackson has been particularly recognized for her dedicated service and assistance to pharmacy students, and some of her students now are fellow members of the pharmacy faculty at the University.

4.8 Notwithstanding her demonstrated qualifications, teaching and community service, Dr. Jackson has been for at least five years continuously discriminated against in her rank and assigned duties, compensation, course assignments and volume of responsibilities, and treatment of her students, in particular those for whom she serves as an advisor.

4.9 The continuing discriminatory conduct to which Dr. Jackson has been subjected has been motivated by her race and national origin, with preferential treatment being accorded to individuals

born in Africa and thereby considered and treated as deserving terms and conditions of employment superior to those accorded native born African-Americans.

4.10 The adverse treatment against Dr. Jackson has been further exacerbated by the lightness of her skin pigmentation, as compared to favored faculty members, and by her age of more than 59 years, substantially greater than the age of faculty accorded more favorable treatment.

4.11 Dr. Jackson has engaged in extensive efforts in the public interest, including requests for public information and persistent advocacy to insure proper and fair compliance with the educational mission of the University, and the University has responded by wilful denial of the requested information, in violation of applicable State law, and has retaliated against Dr. Jackson for her public expression in the public interest and her efforts to mitigate and resolve the unlawful actions against her through available means within the University.

4.12 Dr. Jackson complained to officials of the University with responsibility over the discriminatory conduct and the discretion and power to effect corrections, and she made extensive and diligent efforts to obtain relief within the University.

4.13 Rather than being accorded merited relief, Dr. Jackson has been and continues to be subjected to acts of retaliation, including the denial and failure of the University to restore Dr. Jackson to her position following leave under the FMLA, on or about May 1, 2012.

4.14 Unable to obtain relief through the internal procedures of the University, Dr. Jackson, on or about January 11, 2011, filed sworn charges of unlawful discrimination with the Texas Workforce Commission Civil Rights Division and the United States Equal Employment Opportunity Commission (E.E.O.C.).

4.15 The Commission conducted an investigation of the charge, but was unable to elicit sufficient information to permit a conclusion either that there had been a violation of the 1964 Civil Rights Act, as amended, and the Age Discrimination in Employment Act, or to certify that the University was in compliance with the laws.

4.16 On or about September 14, 2011, the E.E.O.C. issued, through the Director of the Houston District Office, a notice of Dr. Jackson's right to file suit on her discrimination claims.

4.17 This lawsuit was filed within the statutory period provided by law.

4.18 The University's actions, through its officers and agents, and the University's omissions of corrective action, proximately have damaged Dr. Jackson extensively by loss of employment, loss of pay and benefits, humiliation, emotional distress, damage to her personal reputation, damage to her professional reputation, damage to her earning capacity and damage to her enjoyment of life.

4.19 It was necessary for Dr. Jackson to obtain legal counsel to file and prosecute this action.

4.20 Dr. Jackson has no plain and adequate remedy at law to obtain reinstatement and appointment to her rightful place, to be free to exercise her First Amendment rights, to obtain public information under applicable law, and to be free from reprisal, and it is essential that this court grant relief through appropriate mandatory and prohibitory injunctive orders, so that Dr. Jackson can gain her employment and rightful place and be kept free from further mistreatment, denial of her constitutional and lawful rights and retaliation.

4.21 Should the evidence establish that because of the bias against Dr. Jackson one or more students have been unfairly adversely affected due to perceived association with Dr. Jackson, the court should extend the provisions of its injunctive orders to provide appropriate relief and protection to those students.

PRAYER

Accordingly, Dr. Jackson prays that the University be cited to appear and answer in this action, that this action be expedited for trial and final disposition as provided by law, and that upon the findings of the jury and the application of the law, the court grant Dr. Jackson a declaration that her civil and legal rights have been violated, such injunctive orders as might be required to provide Dr. Jackson full equitable relief and protection, an award of lost pay and all related benefits, an award of compensatory damages to the full extent allowed by law, reasonable attorney's fees, costs and related expenses, pre-judgment interest and post-judgment interest as provided and allowed by law, and all other relief to which Dr. Jackson might show herself entitled at law or in equity.

Respectfully submitted,

/S David T. Lopez

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OF COUNSEL:

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Demand for Jury

In the exercise of her rights under the Constitution and laws of the United States, plaintiff requests that all facts material to her claims be determined by a jury.

CERTIFICATE OF SERVICE

I certify that the above submission was served on the attorney-in-charge for the defendant, utilizing the court's ECF service, on this 25th day of June, 2012.

/S David T. Lopez

David T. Lopez
Attorney-in-Charge for Plaintiff